

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**JOSEPH MCDONALD,**

**Petitioner,**

**v.**

**CV 09-0022 MV/LAM**

**JAMES JANECKA,**

**Respondent.**

**ORDER DENYING MOTION TO SUBSTITUTE PARTIES AND ORDER TO PROVIDE  
CURRENT ADDRESS TO THE COURT**

**THIS MATTER** is before the Court on Petitioner's *Motion to Cure Deficiency (Doc. 10)*, filed on April 10, 2009, which the Court construes as a motion to substitute parties. Petitioner states that he has been transferred and is no longer in the custody of Respondent James Janecka, and that another transfer is currently pending so "Petitioner is without knowledge of his present custodian or his near[-]future custodian." Petitioner, therefore, asks "the Court to remove the present Respondent James Janecka and add the New Mexico Attorney General Gary K. King as the new Respondent." Rule 2(a) of the Rules Governing Section 2254 Cases in the United States District Courts states that "[i]f the petitioner is currently in custody under a state-court judgment, the petition must name as respondent the state officer who has custody." Since the New Mexico Attorney General is not a proper respondent for Petitioner's § 2254 case, the Court **FINDS** that Petitioner's *Motion to Cure Deficiency (Doc. 10)* is not well-taken, and will be **DENIED**.

In addition, pursuant to D.N.M.LR-Civ. 83.6, Petitioner has a continuing duty to notify the Clerk in writing of any change in his mailing address. The Court, therefore, orders Petitioner to provide the Clerk notice of any changes of his address.

**IT IS THEREFORE ORDERED** that Petitioner's *Motion to Cure Deficiency* (Doc. 10) is **DENIED**.

**IT IS FURTHER ORDERED** that Petitioner must notify the Clerk of any changes of his address.

**IT IS SO ORDERED.**

  
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**LOURDES A. MARTÍNEZ**  
**UNITED STATES MAGISTRATE JUDGE**